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| 10/757,225 | 01/14/2004 | Michael B. Jones | 17771-298586 | 3261 |

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EXAMINER

BOECKMANN, JASON J

ART UNIT PAPER NUMBER

3752

DATE MAILED: 12/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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|------------------------------|---------------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 10/757,225 | Applicant(s) JONES ET AL. | |
| | Examiner Jason J. Boeckmann | Art Unit 3752 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 9/29/2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
4a) Of the above claim(s) 24 and 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20, 26 is/are rejected.
- 7) ☒ Claim(s) 21-23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 9/29/2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION
Election/Restrictions

Claims 24 and 25 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 9/29/2006.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6, 7, 9, 13-19 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Amundsen (5,485,857).

It is noted that “for cleaning parts which have been in contact with paint from a hand-held paint spray gun,” is an intended use recitation and is not given any patentable weight. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus satisfying the claimed structural limitation.

Regarding claim 1, Amundsen shows an apparatus comprising a cleaning cap (28) having: a first fitting (30) for receiving a cup (40), that is capable of holding paint, a second fitting (the threads on the inlet of channel 34), that is capable of being connected to a garden hose, and having at least one aperture (the outlet of channel 34 in to the can) in fluid communication therewith that directs all the fluid into the can

(figure 3), and an outlet passage (36) providing an outlet fluid communication path from an interior of the cap to an exterior of the cap.

Regarding claims 2-4, the first fitting has a first set of threads and the second fitting has a second set of threads that are female hose fitting threads (figure 3).

Regarding claims 6 and 7, the cleaning cap (28) has an inlet fluid communication path (34) from the second fitting to the interior of the cap and includes a first aperture and a second aperture (the inlet end of channel 36 and the outlet end of channel 34).

Regarding claim 9, each of the pair of apertures has a partial obstruction of sufficient size to prevent parts being cleaned from passing through the aperture (the diameter of the aperture).

Regarding claims 13-18, the outlet fluid communication path includes a trough (see figure 3) extending from the interior of the cap to the exterior of the cap. The trough surrounds at least a portion of the sleeves and has a first portion oriented in a generally radial direction and a second portion oriented in a generally axial direction.

Regarding claim 26, Amundsen shows an apparatus capable for attachment to an extended suction set of the type having a double lumen hose, comprising: a double lumen fitting (the outlet of channel 34 and the inlet of channel 36) that is capable of receiving a dual hose fitting, an integral female hose coupling (the inlet of channel 34) that is capable of receiving a male hose coupling, and a fluid passageway providing a fluid communication path from the female hose coupling to the double lumen fitting such that when the garden hose is attached to the female hose coupling (18), all the water

flowing through the garden hose will be directed through the cleaning cap and the extended suction set.

Claims 1, 7, 8, 10-12 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Lewis (6,488,216).

It is noted that "for cleaning parts which have been in contact with paint from a hand-held paint spray gun," is an intended use recitation and is not given any patentable weight. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus satisfying the claimed structural limitation.

Regarding claim 1, Lewis shows an apparatus comprising a cleaning cap (14) having: a first fitting (where the lid connects to the cup) for receiving a cup (33), that is capable of holding paint, a second fitting (16), that is capable of being connected to a garden hose, and having at least one aperture (20) in fluid communication therewith, with all the fluid being directed into the can (figure 1), and an outlet passage (22) providing an outlet fluid communication path from an interior of the cap to an exterior of the cap.

Regarding claims 6 and 7, the cleaning cap (14) has an inlet fluid communication path (17) from the second fitting to the interior of the cap and includes a first aperture and a second aperture (the inlet to the cup and the outlet from the cup).

Regarding claim 8, a crossbar extends across at least one of the first and second apertures (figure 3).

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Regarding claims 10-12, the cap includes a pair of sleeves (16 and 20) extending from and in fluid communication with the first and second apertures, and at least one pair of the sleeves has a crossbar extending thereacross, the crossbar can provide a positive stop for a dual hose fitting received in the sleeve.

Regarding claim 20, the outlet passage includes a fluid permeable barrier (26) that has openings sufficiently large to permit the flow of water from the interior to the exterior of the cap wherein the openings are small enough to block the expulsion of any of the parts to be cleaned.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

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the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Amundsen (5,485,857) in view of Hubert (3,194,444).

Amundsen shows all aspects of the applicant's invention as in the rejection of claims 1 and 3 above, but does not specifically disclose that the second set of threads are female three quarter by eleven and a half standard hose coupling threads. However, Hubert shows a cleaning devise similar to that of the present invention that has a female hose fitting that is used for a conventional garden hose. Therefore, It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to make the second set of threads are female three quarter by eleven and a half standard hose coupling threads in order to be able to connect the cleaning device to a conventional garden hose.

Allowable Subject Matter

Claims 20-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1-23 and 26 have been considered but are moot in view of the new ground(s) of rejection.

It is noted the word "substantially," does not mean that 100% of the fluid goes into the paint cup. It is unclear as to what amount of fluid is a substantially amount. Does substantially mean more than 30%, more than 50% or more than 80%?

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason J. Boeckmann whose telephone number is (571) 272-2708. The examiner can normally be reached on 7:30 - 5:00 m-f, first Friday off.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JJB

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12/6/06


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